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Family Attractions Amusements Co., LLC and Comité De Apoyo A Los Trabajadores Agrícolas (CATA). Case 01–CA–130086

May 12, 2021

SUPPLEMENTAL DECISION AND ORDER¹

BY MEMBERS KAPLAN, EMANUEL, AND RING

The General Counsel seeks a default judgment in this case on the ground that Family Attractions Amusements Co., LLC (the Respondent) has failed to file an answer to the compliance specification.

On December 28, 2017, the National Labor Relations Board issued a Decision and Order² in this case approving the parties' formal settlement stipulation and ordering the Respondent to make whole its employees employed during the 2014 carnival season for any loss of earnings resulting from the Respondent's violation of Section 8(a)(3), (2), and (1) of the Act. The Board's Order did not set forth the amounts, if any, of backpay due to employees. Instead, the Board ordered the parties to commence compliance proceedings if they were unable to reach agreement upon backpay.

A controversy having arisen over the amount of backpay due the discriminatees, the Acting Regional Director for Region 1 issued a compliance specification and notice of hearing on June 2, 2020,³ setting forth backpay and notifying the Respondent that an answer must be filed by June 23, in conformity with the Board's Rules and Regulations. On June 19, the Respondent requested an extension of time until July 7 to file its answer, which the Acting Regional Director granted. In support of its request, Respondent's counsel asserted that it had recently learned that the Respondent had gone out of business in 2016 and was dissolved shortly thereafter. On July 6, the Respondent requested a second extension of time until July 21. This request stated that "as a result of the company being dissolved, it is not clear that [counsel] ha[s] a client to

represent in this matter."⁴ The Acting RD granted an extension until July 27.⁵ To date, the Respondent has failed to file an answer to the compliance specification.

On November 6, the General Counsel filed with the Board a Motion for Default Judgment, with exhibits attached. On November 17, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted.⁶ The Respondent again filed no response. The allegations in the motion and the compliance specification are therefore undisputed.⁷

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on the Motion for Default Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that a respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) provides that if the respondent fails to file an answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations in the motion for default judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and we grant the General Counsel's Motion for Default Judgment. Accordingly, we conclude that the net backpay due is as stated in the compliance specification, and we will order the Respondent to pay that amount, plus interest accrued to the date of payment.

ORDER

The National Labor Relations Board orders that the Respondent, Family Attractions Amusements Co., LLC, its officers, agents, successors, and assigns, shall make whole

¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

² *JKJ Workforce Agency, Inc.*, Case 01–CA–129948 et al., unpublished order dated December 28, 2017 (approving a Formal Settlement Stipulation between the General Counsel and 33 respondent employers, including the Respondent).

³ All dates are 2020 unless otherwise indicated.

⁴ On December 15, counsel for the Respondent informed the Board that it was withdrawing from representation in this matter in light of the Respondent's dissolution.

⁵ The Motion for Default Judgment inadvertently states that the second extension was granted until July 21; however, the file indicates that the extension was until July 27. See motion at 2; Exh. F at 44.

⁶ A Notice to Show Cause issued on November 10 inadvertently gave a return date in 2019. The Board issued a corrected notice on November 17 with a response date of December 1.

⁷ Assertions by the Respondent's former counsel that the Respondent has gone out of business are not a legitimate defense for its failure to file an answer to the compliance specification, nor are they otherwise a basis for denying the Motion for Default Judgment. See, e.g., *Judd Contracting, Inc.* 338 NLRB 676 fn. 3 (2002), enfd. 76 Fed. Appx. 651 (6th Cir. 2003).

DECISIONS OF THE NATIONAL LABOR RELATIONS BOARD

the discriminatees named below by paying them the amounts opposite their name in the table below, plus interest accrued to the date of payment, as prescribed in *New Horizons*, 283 NLRB 1173 (1987), compounded daily as prescribed in *Kentucky River Medical Center*, 356 NLRB 6 (2010), minus tax withholdings required by Federal and State laws.

Dated, Washington, D.C. May 12, 2021

William J. Emanuel, Member

John F. Ring, Member

Marvin E. Kaplan, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

Last Name	First Name	Middle Name	Backpay
Batres	Jesus	Rios	\$13,619
Batres	Noel	Rios	\$13,619
Cabanas	Jesus	Herrera	\$13,619
Esteban	Quirino	Aparicio	\$13,619
Gallegos	Arnulfo	Reyes	\$13,619
Gomez	Severino	Leal	\$13,619
Hernandez Soto	Juan	Carlos	\$13,619
Herrera Libreros	Carlos	Manuel	\$13,619
Martinez	Heriberto	Mota	\$13,619
Mendez	Gabriel	Ocotzota	\$13,619
Mota	Adrian	Alarcon	\$13,619
Murrieta Garcia	Vidal		\$13,619
Parra	Humberto	Segura	\$13,619
Perez Hernandez	Martin		\$13,619
Preza	Salvador	Sanchez	\$13,619
Puga	Mauricio	Guadalupe Flores	\$13,619
Reyes Soto	Filemon		\$13,619
Ruiz Vazquez	Hugo	Antonio	\$13,619
Salazar	Alejandro	Amador	\$13,619
Salazar Rosas	Alfredo		\$13,619
Salazar Rosas	Rosas		\$13,619
Salazar Rosas	Uriel		\$13,619
Tejeda Garcia	Alberto	Alejandro	\$13,619
Valenzuela Pizana	Jose	Victor	\$13,619
Zamora Guevara	Uriel		\$13,619

TOTAL \$ 340,475.00